April 3, 2012

Thank you for your inquiry to Region 10, where you posed the question:

> "We have a few customers that test their oil once it's accumulated in their tanks on-site. They do not have a process to track the oil back to its original point of generation. For those situations, would it be acceptable to EPA if we managed the oil based on the concentration of PCB upon discovery?"

The general answer to your question is no, you cannot determine the PCB concentration of used oil based on aggregated, or accumulated oil. PCBs must be disposed of at the concentration at which they are taken out of service, and any requirement of 40 C.F.R. Part 761 based on a numerical concentration cannot be avoided by dilution, including dilution associated with accumulation. EPA has addressed this point in the PCB Question and Answer document at http://www.epa.gov/epawaste/hazard/tsd/pcbs/pubs/qacombined.pdf:

> ***Can liquids containing differing PCB levels be mixed together?***
> A: Yes, providing the resultant mixture is handled in accordance with the requirements applicable to the liquid component with the greatest PCB concentration level.

We are pleased that at least some of your customers are testing their used oil, and we acknowledge that the regulations at 40 Code of Federal Regulations (C.F.R.) Part 761 do not establish a requirement that generators must test their used oil for PCBs. However, we are concerned that there is a potential that some oil containing PCBs ≥ 50 ppm (and thus subject to the disposal requirements of 40 C.F.R. §761.60(a)) could be placed in an accumulation tank initially containing PCBs <50 ppm, such that the resulting mixture has PCBs <50 ppm. In this instance, a disposal decision based on the accumulated quantity of oil would incorrectly conclude that the oil could be managed as used oil (either on-specification or off-specification), instead of being subject to the disposal requirements of 40 CFR §761.60(a).

EPA recognizes that it may not be practicable for some facilities to analytically determine the PCB concentration of all contributions to an accumulation tank. In these instances, it is an acceptable practice to sample the accumulation tank, subject to certain considerations. In these instances, records of the volume of each addition to the accumulation tank should be kept, and the decision criteria used for evaluating the sampling results should be sufficiently low to rule out the potential that any individual contribution might have been above 50 ppm total PCBs. For example, if an accumulation tank were to have a capacity of 100 gallons, and each contribution to a full tank was a volume of 10 gallons (in other words, each contribution to the accumulation tank was $1/10^{th}$ of the total tank capacity), a decision criteria of 50 ppm/10, or 5 ppm would be appropriate to rule out any one contribution to the accumulation tank might have had a concentration ≥ 50 ppm.

In addition, EPA strongly recommends that generators of used oil collect small retain samples of each contribution to an accumulation tank. If sampling of the accumulation indicates any detectable concentration of PCBs, then retain samples can be analyzed to conclusively determine if any individual contributions to the accumulation tank contained PCBs ≥ 50 ppm. Absent these practices, storage and disposal decisions made solely on the basis of the concentration of PCBs in the accumulation tank could subject the generator, and possibly facilities collecting such oil for recycling or disposal, to enforcement liability if it is later determined that at least some contributions to the accumulation tank were ≥ 50 ppm, even if the accumulated oil contains PCBs at a concentration below 50 ppm.

Finally, EPA strongly recommends that all facilities generating, collecting or accepting used oil, including do-it-yourself used oil collection centers, maintain appropriate security and waste acceptance processes to ensure that unacceptable oils are not deliberately or unintentionally placed in a collection tank.